

Before the
Federal Communications Commission

Washington, D.C. 20554

In the Matter of

MM DOCKET NO. 93-164

Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations,)
(Williamstown, West Virginia))

RM-8248

RECEIVED

AUG 24 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: Chief - Allocations Branch

REPLY COMMENTS

James Phillips ("Phillips"), by and through counsel and pursuant to §§1.415 & 1.420 of the Commission's Rules, (47 C.F.R. §§1.415 & 1.420), hereby submits his Reply Comments in the above-captioned rulemaking proceeding. In support whereof, the following is shown:

1. On June 17, 1993, the Commission issued its Notice of Proposed Rulemaking, DA 93-655, released June 17, 1993 ("NPRM") in this proceeding, announcing that it was considering Phillips' proposal to allot channel 245A to Williamstown, West Virginia as that town's first aural service. In his original "Petition For Rulemaking" ("Petition"), Phillips more than amply demonstrated that Williamstown qualifies as a "community" for allotment purposes. For example, in his Petition, Phillips showed, inter alia, that Williamstown, West Virginia is an incorporated town of 2,774 persons, featuring its own high school, retail trade and mayor-council government. See Petition at p. 1.

2. Despite Phillips' clear showing, PBBC, Inc. ("PBBC"), the licensee of nearby WXIL-FM, Parkersburg, West Virginia, filed its Comments in this proceeding challenging the allotment of Channel 245A to Williamstown. In its Comments, PBBC essentially argues

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that, for a variety of invalid reasons, Williamstown should not be permitted its own FM station. However, as will be shown, PBBC has failed to raise a single persuasive reason to deny the proposed allotment.

3. While PBBC readily admits that Williamstown, West Virginia, "may be a community for FCC allotment purposes...", it nevertheless attempts to show that "there is no identifiable need for Williamstown to have its own 'voice.'" PBBC Comments at p. 2. This is simply not true. As shown in the attached documents, Williamstown is its own community. The town is incorporated and has:

- a population in excess of 2,500
- easily definable boundaries (see Exhibit A)
- its own high school, police, fire and water departments, town government, sewage plant, library and emergency service (see Exhibit B)
- its own telephone directory listing (see Exhibit B)
- its own businesses, churches and organizations, many of whom bear the name "Williamstown" (see Exhibit B)

4. These are all factors that the Commission has found important when deciding whether a community deserves its own FM allotment. See Princeville, HI, 67 RR 2d 644 (MMB 1990); Evans, GA, 67 RR 2d 113 (MMB 1989); and Fairforest, SC, 64 RR 2d 670 (1987). In this case, these facts demonstrate that Williamstown, West Virginia is an independent community which can easily support its own FM radio station.

5. PBBC also argues that the area surrounding Williamstown is already served by other media and that "the market cannot even

support the present complement of stations." Id. This argument, in addition to other issues raised by PBBC, focuses solely on the economic impact that the proposed new Williamstown, West Virginia station may have on the marketplace. However, as PBBC admits, the FCC no longer considers this issue, commonly referred to as the "Carroll¹ doctrine," in rulemaking proceedings. See Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations, 3 FCC Rcd 638 (1988), affirmed, 4 FCC Rcd 2276 (1989). As the Commission noted in that proceeding, it has found that "consideration of allegations of economic injury...is like looking for the proverbial 'needle in a haystack.'" Id. at 641. After years of sorting through such allegations, the FCC concluded that government regulation was not the answer and that market forces should be the only test of whether a new station will be successful. Id. at 640.

6. In this case, PBBC's speculative arguments are equally confusing and unproven. The only important fact is that Phillips has stated that he will apply for, construct and operate a new Williamstown station, if granted the opportunity. Whether his station is an immediate financial success is not properly a question in this proceeding. Therefore, PBBC's speculative arguments concerning the viability of a new Williamstown station are irrelevant and should be disregarded.

7. PBBC also argues that, in a prior rulemaking proceeding, the Commission found that "[T]he initiation of a first service to

¹ Carroll Broadcasting Co. v. FCC, 258 F.2d. 440 (D.C. Cir. 1958).

Williamstown was not deemed sufficient to offset the cost of providing it." PBBC's Comments at p. 3. However, as PBBC readily admits, that case involved a very different issue than the one presented in this proceeding. In Ravenswood and Williamstown, WV, 7 FCC Rcd 5116, 5118 (1992), the Commission would not permit a party to change the city of license of its FM station from Ravenswood, West Virginia to Williamstown, West Virginia because the change would result in the loss of service to over thirty thousand people. Id. It should be noted that the Commission never stated that Williamstown was undeserving of its own FM allotment, only that it would not be fair to deny service to thousands of people by reallocating the channel from Ravenswood to Williamstown. Id. In this case, Phillips' proposal is easily distinguished by the simple fact that it does not involve any loss of service. In fact, his proposal will result in a gain of first aural service to the citizens of Williamstown, West Virginia. Therefore, unlike the Ravenswood proceeding, there will be no negative side effects if the Commission grants Phillips' proposal. PBBC's reliance on the Ravenswood case is, therefore, misplaced.

8. Consequently, PBBC has failed to raise any valid reason for denying Williamstown, West Virginia its first local media voice. Therefore, the Commission should grant Phillips' Petition For Rulemaking and allot Channel 245A to Williamstown. If the Commission takes such action, Phillips will promptly apply for the new Williamstown station and construct it.

WHEREFORE, the above premises considered, it is respectfully requested that the above-captioned Notice of Proposed Rulemaking be

adopted and that §73.202(b) be amended in conformance with the above.

Respectfully submitted,
JAMES PHILLIPS

By:

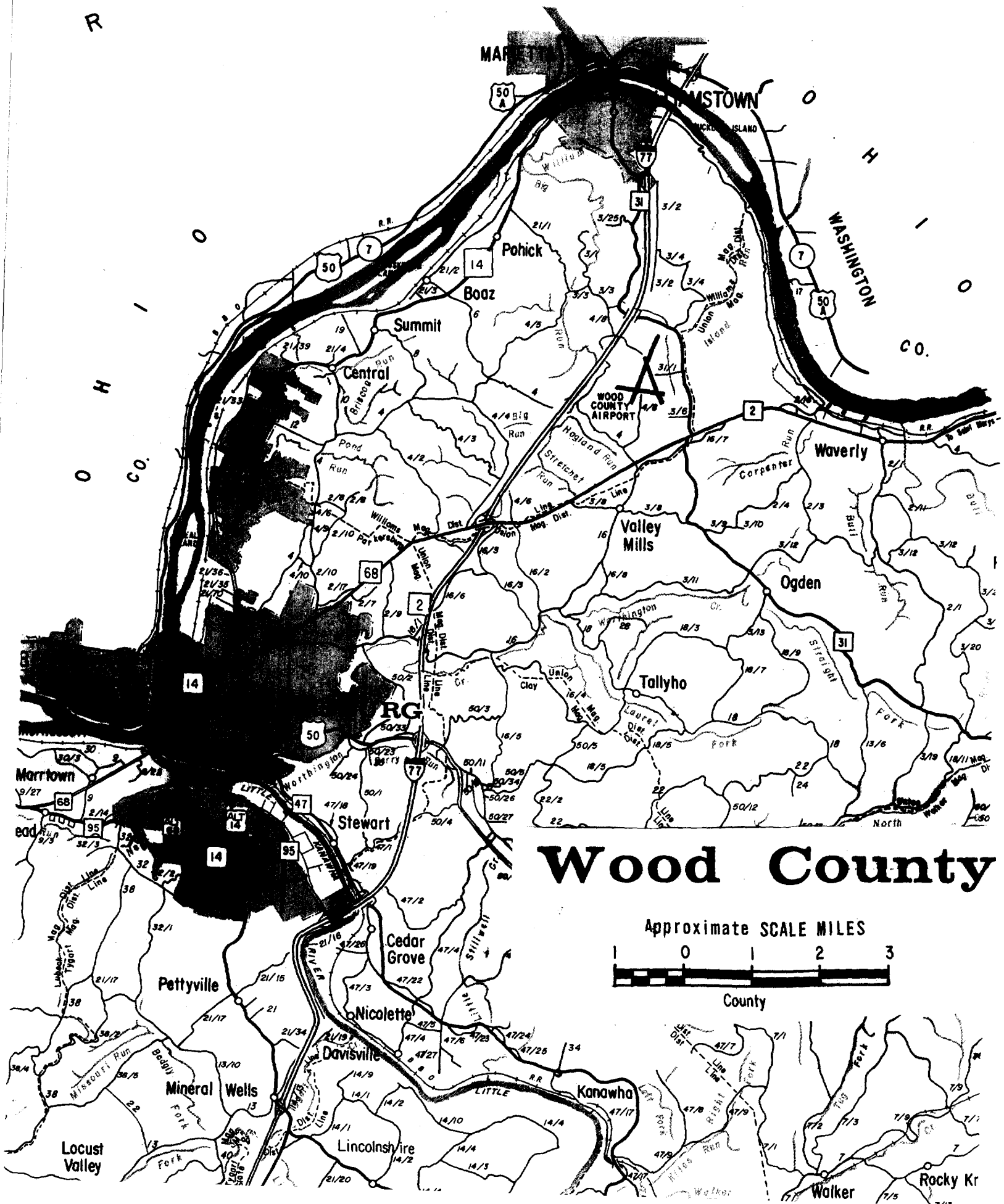


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August 24, 1993

EXHIBIT A



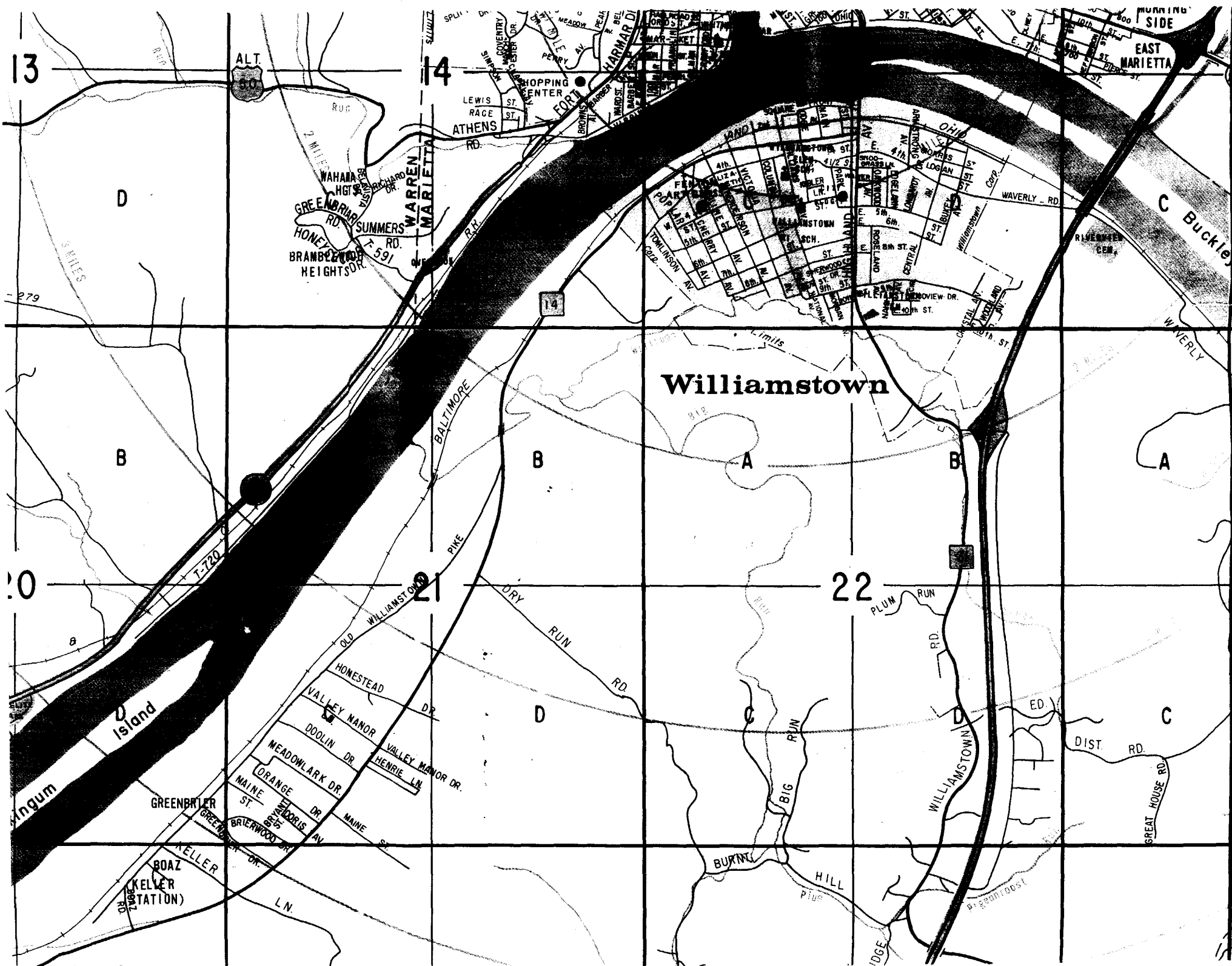


EXHIBIT B

W

WXXK-KIX Fm 103

1715 St Marys Av Parkersburg
Williamstown Tel No--375-2003

Wade Charles & Jenny

515 Columbia Av Williamstown 375-3915

Wagoner Russell

Burnt Hill Rd Wilmstwn 375-3962

Wagoner Randy

137 Meadowlark Dr Wilmstwn 375-4919

Wakefield Ella 810 W 6th 375-7969

Waldeck Densel R Mullenix Addition 375-3614

Walizer John T 88 Greenwood Dr 375-3891

Walk J M 710 Williams Av Wilmstwn 375-3647

Walker D 516 Bukey Av Wilmstwn 375-3961

Walker Division Of Butler

Manufacturing Company

620 Depot St Parkersburg WV - 304 485-1611

Walker Hugh E Rev

404 Oakwood Av Wilmstwn 375-4840

Walker Larry & Karen Access Rd 375-3977

Walker O L 1000 Highland Av 375-6041

Walker Robert C Jr

7 Valley Manor Ln Boaz 375-2121

Walls R K 30 Crystal Av Williamstown 375-4824

Walls Ralph E 803 Highland Av 375-9929

Walters Dean Jr Access Rd Wilmstwn 375-4962

Wamsley David B Homestead Dr 375-3971

Ward B L Mrs 800 W 4th St 375-6145

Ward Bill 437 Victoria Av 375-4621

Ward Delbert 105 Front St 375-6281

Ward E 814 Highland Av Williamstown 375-7948

Ward Edward

309 W 5th St Williamstown 375-2289

Ward Richard D

204 8-1/2 St Wilmstwn 375-3880

Ward V E 522 Victoria Av 375-4984

Warden Ralph W 401 Henderson Av 375-6432

Ware Nelson

402 Bukey Av Williamstown 375-7824

Warfield Oscar W

209 Williams Av Williamstown 375-5979

Warner Nancy Louise 434 Victoria Av 375-6508

Warner W C Jr 601 Poplar St 375-7781

Warwick D M 419 Dodge Av 375-7773

Washburn Dave

607 Roseland Av Wilmstwn 375-3987

Washburn Ralph V 707 Caroline Av 375-6000

Washington County Disposal Co Inc

300 Central Av 375-7788

Watson Theodore L 704 5th St 375-5947

Watt Douglas

410 Williams Av Williamstown 375-3653

Watts Gary 119 2nd St 375-6242

Way Clyde Rt 1 Box 92 Wilmstwn 375-4601

Waybright H E Northwood Terr 375-5954

Wayne Jeff 8-1/2 St Wilmstwn 375-4658

Weather Forecast-Marietta

105 W 3rd St Williamstown 375-4800

Weaver Dale

125 Homestead Dr Wilmstwn 375-6079

Weaver Lisa & Ray

Rt 2 Box 118 Wilmstwn 375-3643

Weaver Paul E Homestead Dr 375-4641

Weaver William O

131 W 8th St Wilmstwn 375-6442

Webb David L 104 Woodview Dr 375-6596

Webb Denzil E State Rt 31 375-3767

Webb E V Wilmstwn 375-4913

Webb Joseph D

801 Huggins Rd Wilmstwn 375-3912

Webber James R 509 Poplar Av 375-3824

Weber Elaine

704 Victoria Av Williamstown 375-2275

Weekley Ora P Jr 29 Homestead Dr 375-4704

Welcomes Aboard Travel Agency

240 Grand Central Mall Parkersburg

Williamstown Tel No--375-2000

Wells Eunice B

121 W 4-1/2 St Williamstown 375-4839

Wells Geo R 103 Sherwood Dr 375-6204

Wells Kenneth

Williamstown Pke Williamstown 375-3921

Weiter Frank Waverly Pke 375-6567

Wendell Winfred 130 E 6th St 375-6115

Wesson Jeffrey B

37 Homestead Dr Williamstown 375-4866

West Va Dept Of Highways

100 Highland Av Wilmstwn 375-6190

WEST VIRGINIA STATE OF—

ATTORNEY GENERAL—

Consumer Hot Line

812 Quarrier St Charltn

Toll Free-Dial "1" & Then 800 368-8808

WORKER'S COMPENSATION FUND—

601 Morris St Charleston WV

Toll Free-Dial "1" & Then 800 642-9091

Westbrook Daniel R

Waverly Rd Wilmstwn 375-6009

Westbrook Marcia 814 Victoria Av 375-3681

Westbrook Rolfe 139 E 5th St 375-6255

Westfall V David 902 Naish Av 375-5889

Wheat First Securities Inc

422 Market St Parkersburg 428-8254

Wheeler Cheryl Access Rd Wilmstwn 375-2135

Whiston E R 398 Dodge Av 375-6585

White Avery M Jr

124 E 6th St Williamstown 375-7614

White Marty

405 Wilma Av Williamstown 375-2286

White William V Rev

Sand Hill Wilmstwn 375-3788

Whitcotton Lawrence

11 Greenbrier Av Wilmstwn 375-4853

Whitehead Larry O

302 Henderson Av Williamstown 375-5950

Whitlatch David P

40 Northwood Terr Williamstown 375-2031

Whitlinger Mary & Bob

101 E 5th St Williamstown 375-4955

Whitlock Howard E

Shawnee Trailer Park Wilmstwn 375-5845

Wiblim Wanema

121 W 4-1/2 St Wilmstwn 375-3707

Wiblin Irene 800 Huggins St 375-3619

Wigal Ronald L

522 Victoria Av Williamstown 375-7703

Wigal Tad

419-A Henderson Av Wilmstwn 375-4672

Wiggins Ralph 501-1/2 Henderson Av 375-6524

Willard Isaac Jr 406 Lombardy Dr 375-6322

Willhide Victor C 25 Crystal Hts 375-5834

Williams Clinton D Valley Manor Dr 375-6299

Williams David R 431 Williams Av 375-3797

Williams Donald A

104 W 9th St Williamstown 375-7600

Williams Earl H

3 E 2nd St Williamstown 375-6543

Williams Jas R 429 Williams Av 375-7653

Williams Judy 403 Park Av Wilmstwn 375-4905

Williams Merrill B Jr

800 Columbia Av 375-5896

Williams Paul Wilmstwn 375-4813

Williams R H

610 Henderson Av Williamstown 375-5934

Williamson Chelcie S

162 B Homestead Dr Williamstown 375-2233

Williamson Daniel D

509 McKenna Dr Williamstown 375-3639

Williamson Dave Access Rd 375-2201

Williamson E L 14 Orange Dr 375-2032

Williamson Jeff

703 Henderson Av Williamstown 375-2053

Williamson John D 601 Caroline Av 375-6046

Williamson Sheila

100-B Snodgrass Ln Williamson 375-2019

Williamstown Antique Mall

439 Highland Av Williamstown 375-6315

Williamstown Auto Service

404 W 3rd St Wilmstwn 375-3806

Williamstown Bible College

111 W 9th St 375-6477

Williamstown Church Of Christ

111 W 9th St 375-6477

Williamstown Elementary School

Williams Av 375-7675

Williamstown Emergency Ambulance

Service 114 W 7th St Williamstown 375-6310

Williamstown Erectors

103 3rd St Wilmstwn 375-3783

Williamstown High School W 5th St 375-6151

Williamstown Masonic Lodge

215 Front St 375-2298

WILLIAMSTOWN NATIONAL BANK

435 Highland Av Wilmstwn WV 375-6262

Williamstown Pharm 439 Highland Av 375-6547

Williamstown Public Library

201 W 5th St 375-6052

Williamstown Save Quick

821 Highland Av 375-6362

Williamstown Steel Div Of Union Boiler

200 Armstrong St 375-4616

Williamstown Swimming Pool

5th St & Williams Av Wilmstwn 375-7960

Williamstown Town Of—

Mayor & Police Ofc City Bg 375-7761

Water Dept City Bldg 375-7761

Water Dept City Bg 375-7761

Fire Dept—

Fire Station City Bldg 375-3960

If No Answer Call 375-7761

Emergency Calls Only Caroline Av 375-6164

If No Answer Call 485-7711

Sewage Plant Williamstown Av 375-5900

Wilson Donald C 112 Sherwood Dr 375-9938

Wilson Forrest F 614 Central Av 375-6318

Wilson J A Waverly Pke Williamstown 375-4767

Wilson J Gary

702 Columbia Av Williamstown 375-3720

Wilson John G

Sunshine Mountain Rd Williamstown 375-4608

Wilson T

616 McKenna Dr Williamstown 375-4631

Wilson Walter Dry Run Rd 375-7668

Wittrout Robert J 200 Woodview Dr 375-2062

Wine Charlotte F

Shawnee Trailer Pk Williamstwn 375-2014

Winer Melissa Tomlinson Village 375-2245

Wingrove Leo D Rt 1 Williamstown 375-9950

Winland Oran D Homestead Dr 375-5964

Winters J Herbert Homestead Dr 375-3975

Winters Nancy Homestead Dr 375-3975

Wise Clara O Rt 1 Box 6 Williamstown 375-7514

Wise Roland K

115 W 9th St Williamstown 375-4810

Wiseman Joseph

5 Crystal Hgts Wilmstwn 375-6250

Witkosky Paul M

31 Northwood Terr Williamstown 375-7909

Wolfe James R 111 W 8th St 375-3825

Wolfe N 509 Victoria Av 375-7897

Wolfe Ronald A Sr 511 Victoria Av 375-7860

Wood County Senior Citizens Nutrition

Program Columbia Av 375-3648

Woodard Jack 22 Doolin Dr 375-3996

Woodell James S

114 E 5th St Wilmstwn 375-5907

Woodford Steve

35 Homestead Dr Boaz 375-4911

Woodford Robt L

Orange Dr Williamstown 375-2141

Woody H E 501 W 6th St 375-7829

Woodyard R L III 4 Woodland Av 375-7915

Worstel B Karl

11 Doolin Dr Williamstown 375-2026

Worstel F L

Williamstown Pke Williamstown 375-7617

Wright Delbert J 503 Cherry Av 375-7874

Wright Edith 507 W 8th St 375-7872

Wright Ernest E 404 Victoria Av 375-7937

Wright James A 903 Naish Av 375-5857

Wright John Williamstown Pke 375-5983

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COAL FISH HATCHERY, on US 60, propagates rainbow and brook trout. Several thousand are distributed annually to streams of the Tug Valley National Forest (see place listing). Visitor center houses aquariums and displays showing some of the hatchery's activities. A guided tour of the hatchery begins at the visitor center. Open daily 8-4, Memorial Day and Labor Day. Free. Phone (304) 361-3611.

JAMSON (E-1) pop. 4,200, alt. 600'. Jamson is the business center for the vast coal fields of the Tug Valley area in West Virginia and Kentucky. Symbolic of coal's importance to the region is the Tug Valley Chamber of Commerce Building. Known as the Coal House, it was built in 1933 from 65 tons of locally mined coal.

WILLIAMSTOWN (B-2) pop. 2,800, alt. 610'. **FENTON ART GLASS CO.** is just off I-77, exit 185; it is also reached via SR 2/14/31 and US 50. Tours cover the entire glass-making process, from the furnace to the finished product. All art glass is either hand pressed or hand blown. Tours every 45 minutes Mon.-Fri. 8:30-2:30; no tours on holidays and the first 2 weeks in July. Free.

Fenton Glass Museum exhibits examples of early Ohio Valley glass. A 28-minute film on the making of Fenton glass is shown regularly. Mon.-Fri. 8-8, Sat. 8-5, Sun. noon-5, June-Aug.; Tues. and Thurs. 8-8, Mon., Wed. and Fri.-Sat. 8-5, Sun. noon-5, Apr.-May and Sept.-Dec.; Mon.-Sat. 8-5, Sun. noon-5, rest of year. Closed Jan. 1, Easter, Thanksgiving and Dec. 25. Admission \$1; ages 10-16, 50c. Phone (304) 375-6122.

Going somewhere?

AAA has already been there, so ask us
how to get there, what to do,
where to stay and what to see. We know!

Further Reading

The following sampling of books has been selected for the pleasure and enrichment of our members who wish to discover more about the region they are visiting. This list is not intended to be a complete survey of works available, nor does it imply AAA endorsement of a particular author, work or publisher.

Delaware:

Colby, Gerald. "The Dupont Dynasty: Behind the Nylon Curtain." A biography of Delaware's most influential family.

Williams, Henry W. "The First State: An Illustrated History of Delaware." A coffee table-quality picture book.

District of Columbia:

Drury, Allen. "Advice and Consent." The classic novel of Washington politics.

Leach, Margaret. "Reveille in Washington." A Pulitzer Prize-winning account of the capital during the Civil War.

Truman, Margaret. "Murder at the FBI." Part of a series of mysteries about the inner workings of the government.

Maryland:

Barth, John. "The Sot-Weed Factor." A satirical novel of 17th-century life.

Michener, James A. "Chesapeake." A fictional history of the Chesapeake Bay area and Maryland's Eastern Shore.

Virginia:

Chestnut, Mary. "A Diary of Dixie." Pulitzer Prize-winning account of a Richmond household during the Civil War.

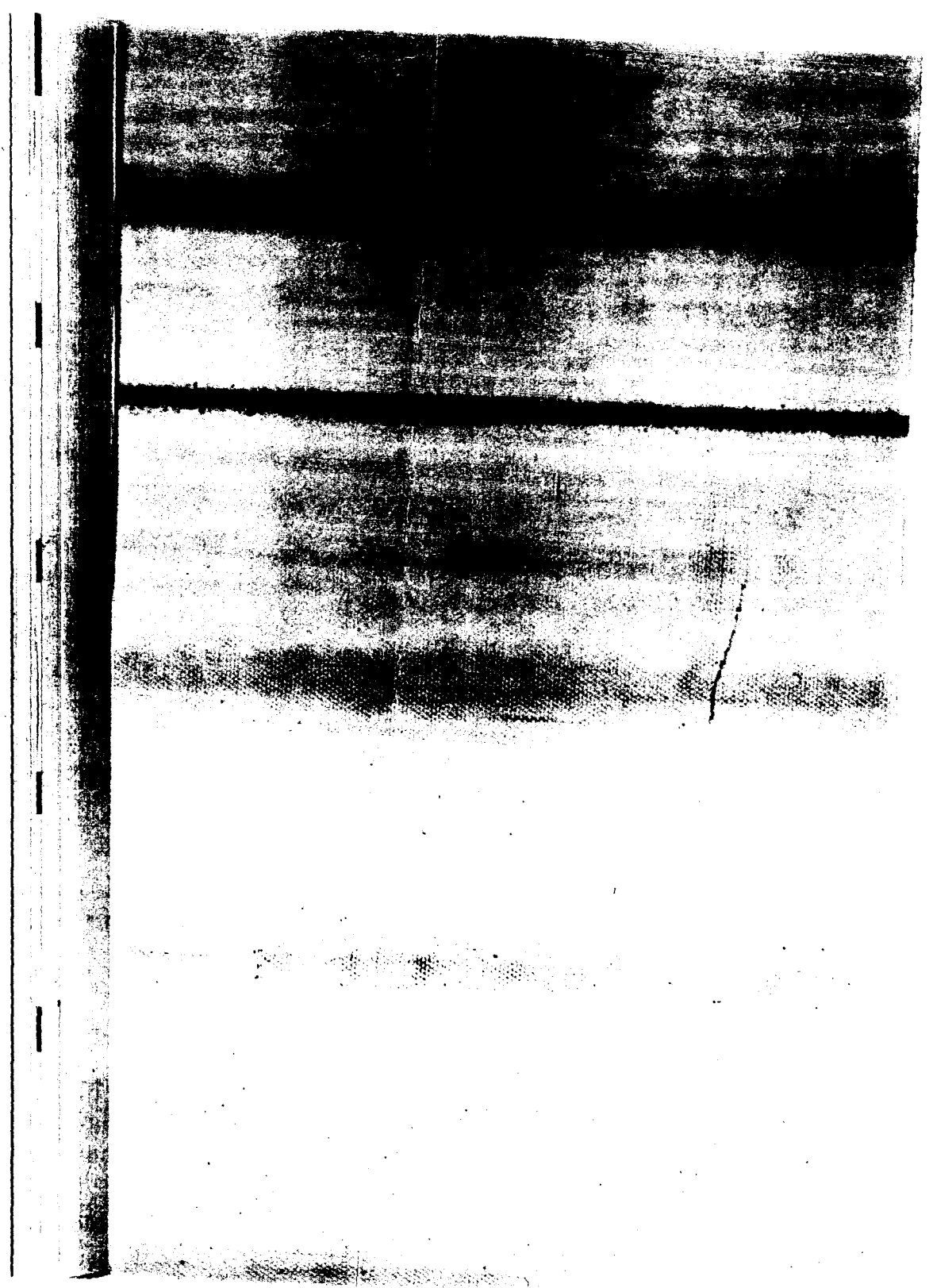
Epps, Garrett. "The Shad Treatment." A novel of contemporary politics.

Styron, William. "The Confessions of Nat Turner." A Pulitzer Prize-winning novel of the 1831 slave rebellion.

West Virginia:

Knowles, John. "A Vein of Riches." A description of West Virginia's coal industry during its boom years.

Settle, Mary Lee. "The Killing Ground." Part of a three-book saga that traces the 300-year history of a farm family.



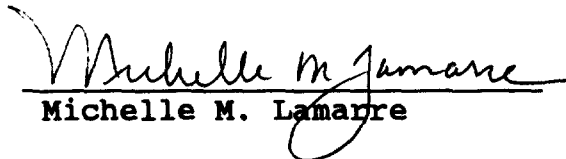
CERTIFICATE OF SERVICE

I, Michelle M. Lamarre, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 24th day of August, 1993, copies of the foregoing were mailed, postage prepaid, to the following:

Sharon P. McDonald (*)
Allocations Branch
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Room 8317
Washington, DC 20554

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Washington, DC 20015-2003
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Michelle M. Lamarre